

**Introduced by Committee on Public Employment and Retirement  
(Correa (chair), Ashburn (vice chair), Wiggins, Padilla, Benoit,  
Liu, Ducheny)**

February 27, 2009

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An act to amend Sections 22115, 22515, 22661, 22713, 22801, 22802, 22803, 22805, 22820, 22821, 22822, 22823, 22826, 23200, 23201, 23859, 24001, 24101, 24216, 24216.5, 24216.6, 24301, 24309, 25007, 25010, 25011.1, 25017, and 25020 of, to amend the heading of Part 14 (commencing with Section 26000) of Division 1 of Title 1 of, and to add Section 25008.5 to, the Education Code, relating to teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 634, as introduced, Committee on Public Employment and Retirement. State Teachers' Retirement System.

(1) Under the State Teachers' Retirement Law, the compensation earnable for a member of the State Teachers' Retirement System employed by a community college prior to July 1, 1996, is defined by a specified number of hours based on provisions in effect on June 30, 1996. That law permits the Teachers' Retirement Board to establish and implement certain factors and assumptions to determine the compensation earnable of a member employed by a community college prior to July 1, 1996, including when the community college subsequently acts to reduce the minimum standard for full time, as specified.

This bill would clarify that these provisions apply when the community college subsequently acts to reduce the minimum standard for full time for the class of employees, as specified.

(2) That law authorizes substitute teachers and other part-time employees who perform creditable service, as defined, to elect membership in the Defined Benefit Program of the State Teachers' Retirement Plan.

This bill would provide that membership election is irrevocable and remains in effect until the member terminates employment.

(3) That law prescribes a comprehensive system of rights and benefits for its members and specifically permits a court, upon legal separation or dissolution of marriage, to award to a nonmember spouse, as defined to include a member's registered domestic partner, a separate account under the Defined Benefit Program pursuant to that person's community property interest. The nonmember spouse who is awarded a separate account has the right to a refund of the accumulated retirement contributions in the account under the Defined Benefit Program, and a return of the Defined Benefit Supplement account balance, of the nonmember spouse.

This bill would provide an exception for nonmember domestic partners in connection with federal tax law limitations.

(4) That law authorizes the governing board of a school district or a community college district or a county superintendent of schools to establish regulations that allow an employee who is a member of the Defined Benefit Program to reduce his or her workload and receive the service credit for full-time work. Among other things, the regulations must include a requirement that the member have at least 10 years of credited service, including 5 years of credited service for full-time employment immediately preceding the reduction in workload.

This bill would revise the regulation to require the member to have at least 10 years of credited service prior to the reduction in workload and to have, in addition, 5 years of credited service for full-time employment immediately preceding the reduction in workload.

(5) That law permits a member of the Defined Benefit Program to elect to purchase additional service credit, including out-of-state service credit, if specified contributions are paid to the State Teachers' Retirement System. That law provides that regular interest shall be charged on all contributions from the end of the school year on which the contributions were based to the date of payment. Among other things, the law permits the member to purchase as additional service credit time spent on approved family care or medical leave of up to 4 months in any 12-month period, as specified.

This bill would instead add regular interest, as specified, only when the member is not employed to perform creditable service subject to coverage by the Defined Benefit Program on the date of the request to purchase additional service credit. The bill would permit a member of the Defined Benefit Program to request to purchase as additional service credit time spent on employer-approved leave based on the guidelines for the Family and Medical Leave Act or the California Family Rights Act, or both. The bill would make related technical and conforming changes.

(6) That law permits a member of the Defined Benefit Program to apply for a disability allowance or disability retirement if the member has 5 or more years of credited service, and subject to specified requirements.

This bill would require the member to make that application in writing to the Teachers' Retirement Board on a properly executed form provided by the State Teachers' Retirement System.

(7) That law provides that upon termination of a survivor benefit allowance, if the total allowance paid or payable is less than the amount of the member's accumulated retirement contributions at the time of death, the remaining balance of accumulated retirement contributions shall be paid to the estate of the spouse.

This bill would provide that if there is no spouse, and if there is a designated beneficiary, as specified, then upon termination of the survivor benefit allowance payable to all eligible dependent children, if the total allowance paid or payable is less than the amount of the member's accumulated retirement contributions at the time of death, the remaining balance of the accumulated retirement contributions shall be paid to the member's designated beneficiary, as specified.

(8) That law limits the amount of postretirement compensation that may be earned in specified types of employment by a retired member of the Defined Benefit Program without a reduction in the retirement benefits of the member. That law, operative until June 30, 2010, provides exemptions from this limit, as specified. The law requires the employing school district to submit documentation to substantiate the eligibility of the temporary employment of a member retired from service for the exemption. Existing law also provides that the period of exemption for members who retired for service and are appointed or assigned to specified positions ends no more than 2 calendar years from the date of appointment or assignment.

This bill would require the documentation to be received by the system no later than June 30 of the school year for which the exemption is to apply. The bill would also provide that the exemption would end no more than 24 consecutive months, rather than 2 calendar years, from the date the exemption commenced.

(9) Under that law, a member may change or cancel a preretirement election of an option on a properly executed form provided by the State Teachers' Retirement System, subject to receipt within 30 days of the member's signature and on or before the effective date of retirement or other specified date.

This bill would additionally require the spouse's signature, if applicable, to be included within that 30-day period.

(10) That law requires the board to establish and maintain a segregated account within the retirement fund to be known as the Annuitant Reserve, for the payment of annuities under the Defined Benefit Supplement Program. Existing law provides that when the board declares an additional earnings credit for a plan year, the board may also declare by plan amendment an additional annuity credit, for members and annuity beneficiaries who are receiving an annuity as of a specified date, based on the balance of credits transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve.

This bill would instead provide that the credit shall be based on the annuity of the member and annuity beneficiaries for the plan year and paid to the members and annuity beneficiaries on the date specified by the board.

(11) That law establishes eligibility criteria for a member to receive a retirement or a disability benefit under the Defined Benefit Supplement Program, including that a member submit an application for the benefit or allowance on a form prescribed by the system. Existing law also provides that a final benefit under this program becomes payable when the system receives proof of the member's death.

This bill would expand the eligibility criteria to provide that a member retiring for service, as specified, on or after January 1, 2010, or whose disability allowance or disability retirement allowance is effective on or after January 1, 2010, shall not receive an allowance unless the member has submitted a completed application on a form prescribed by the system. The bill would also provide that no benefit shall be paid to a beneficiary until the final benefit is paid.

(12) The bill would make other technical and conforming changes to related provisions.

(13) The bill would provide that any section of any other act enacted by the Legislature during the 2009 calendar year that takes effect on or before January 1, 2010, and that affects a provision of this act would prevail over this act.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 22115 of the Education Code is amended  
2 to read:

3 22115. (a) "Compensation earnable" means the creditable  
4 compensation a person could earn in a school year for creditable  
5 service performed on a full-time basis, excluding service for which  
6 contributions are credited by the system to the Defined Benefit  
7 Supplement Program.

8 (b) The board may determine compensation earnable for persons  
9 employed on a part-time basis.

10 (c) ~~When~~ If service credit for a school year is less than 1.000,  
11 compensation earnable shall be the quotient obtained when  
12 creditable compensation paid in that year is divided by the service  
13 credit for that year, except as provided in subdivision (d).

14 (d) ~~When~~ If a member earns creditable compensation at multiple  
15 pay rates during a school year and service credit at the highest pay  
16 rate is at least 0.900 of a year, compensation earnable shall be  
17 determined as if all service credit for that year had been earned at  
18 the highest pay rate. This subdivision shall be applicable only for  
19 purposes of determining final compensation. ~~When~~ If a member  
20 earns creditable compensation at multiple pay rates during a school  
21 year and service credit at the highest pay rate is less than 0.900 of  
22 a year, compensation earnable shall be determined pursuant to  
23 subdivision (c).

24 (e) (1) For purposes of determining compensation earnable for  
25 a member employed by a community college prior to July 1, 1996,  
26 full time shall be defined pursuant to Section 22138.5 and pursuant  
27 to Section 20521 of Title 5 of the California Code of Regulations,  
28 as those provisions read on June 30, 1996, if application of that

1 definition will increase the compensation earnable or otherwise  
2 enhance the benefits of the member.

3 (2) For purposes of administering this subdivision, the board  
4 shall have the authority to do both of the following:

5 (A) Establish and implement factors and assumptions necessary  
6 to calculate and compare the benefits payable under the definition  
7 of compensation earnable described in this subdivision. Those  
8 factors and assumptions may be based on information reported by  
9 the employer, including, but not limited to, all of the following:

10 (i) Base hours.

11 (ii) Actual earnings.

12 (iii) Compensation earnable.

13 (B) Review member benefit calculations that were performed  
14 using the factors and assumptions described in subparagraph (A).  
15 If the board determines that an employer failed to identify part-time  
16 service performed, the board shall consider that part-time service  
17 to be performed in a part-time lecture assignment as defined by  
18 the employer. If the board determines by the review of the member  
19 benefit calculations that the required information reported by the  
20 employer is inaccurate, incomplete, or the factors and assumptions  
21 were applied incorrectly, the board may recalculate member  
22 benefits using additional factors and assumptions that may include,  
23 but are not limited to, all of the following:

24 (i) Base hours.

25 (ii) Actual earnings.

26 (iii) Compensation earnable.

27 (3) This subdivision shall apply to a member employed by a  
28 community college prior to July 1, 1996, if the community college  
29 subsequently acts to reduce the minimum standard for full time as  
30 described in subdivision (c) of Section 22138.5 *for the class of*  
31 *employees*, and that community college provides written notice to  
32 the system of the act of the community college to reduce that  
33 minimum standard.

34 (4) This subdivision shall not apply to a member employed by  
35 a community college that has not reduced the minimum standard  
36 as described in subdivision (c) of Section 22138.5.

37 SEC. 2. Section 22515 of the Education Code is amended to  
38 read:

39 22515. Persons excluded from membership pursuant to Sections  
40 22601.5, 22602, and 22604 may elect membership in the Defined

Benefit Program at any time while employed to perform creditable service subject to coverage under that program. The election shall be in writing on a form prescribed by this system and shall be filed in the office of this system prior to submission of contributions. *The election is irrevocable and shall remain in effect until the member terminates employment.* The amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.

SEC. 3. Section 22661 of the Education Code is amended to read:

22661. (a) The nonmember spouse who is awarded a separate account under this part shall have the right to a refund of the accumulated retirement contributions in the account under the Defined Benefit Program, and a return of the Defined Benefit Supplement account balance, of the nonmember spouse under this part.

(b) The nonmember spouse shall file an application on a form provided by the system to obtain a refund or lump-sum payment.

(c) The refund of accumulated retirement contributions in the account under the Defined Benefit Program and the return of the accumulated Defined Benefit Supplement account balance under this part are effective when the system deposits in the United States mail an initial warrant drawn in favor of the nonmember spouse and addressed to the latest address for the nonmember spouse on file with the system.

(d) If the nonmember spouse has elected on a form provided by the system to transfer all or a specified portion of the accumulated retirement contributions or accumulated Defined Benefit Supplement account balance that are eligible for direct trustee-to-trustee transfer to the trustee of a qualified plan under Section 402 of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the United States mail of a notice that the requested transfer has been made constitutes a refund of the nonmember spouse's accumulated retirement contributions as defined in Section 22161.5 or the return of the accumulated Defined Benefit Supplement account balance. *This subdivision shall not apply to a nonmember domestic partner, consistent with Section 402 of the Internal Revenue Code.*

(e) The nonmember spouse is deemed to have permanently waived all rights and benefits pertaining to the service credit,

1 accumulated retirement contributions, and accumulated Defined  
2 Benefit Supplement account balance under this part when the  
3 refund and lump-sum payment become effective.

4 (f) The nonmember spouse may not cancel a refund or lump-sum  
5 payment under this part after it is effective.

6 (g) The nonmember spouse shall not have a right to elect to  
7 redeposit the refunded accumulated retirement contributions under  
8 this part after the refund is effective, to redeposit under Section  
9 22662 or purchase additional service credit under Section 22663  
10 after the refund becomes effective, or to redeposit the accumulated  
11 Defined Benefit Supplement account balance after the lump-sum  
12 payment becomes effective.

13 (h) If the total service credit in the separate account of the  
14 nonmember spouse under the Defined Benefit Program, including  
15 service credit purchased under Sections 22662 and 22663, is less  
16 than two and one-half years, the board shall refund the accumulated  
17 retirement contributions in the account.

18 SEC. 4. Section 22713 of the Education Code is amended to  
19 read:

20 22713. (a) Notwithstanding any other provision of this chapter,  
21 the governing board of a school district or a community college  
22 district or a county superintendent of schools may establish  
23 regulations that allow an employee who is a member of the Defined  
24 Benefit Program to reduce his or her workload from full time to  
25 part time, and receive the service credit the member would have  
26 received if the member had been employed on a full-time basis  
27 and have his or her retirement allowance, as well as other benefits  
28 that the member is entitled to under this part, based, in part, on  
29 final compensation determined from the compensation earnable  
30 the member would have been entitled to if the member had been  
31 employed on a full-time basis.

32 (b) The regulations shall include, but may not be limited to, the  
33 following:

34 (1) The option to reduce the member's workload shall be  
35 exercised at the request of the member and may be revoked only  
36 with the mutual consent of the employer and the member. The  
37 agreement to reduce a member's workload shall be in effect at the  
38 beginning of the school year.

39 (2) The member shall have been employed on a full-time basis  
40 to perform creditable service subject to coverage under the Defined



1 Benefit Program and have a minimum of 10 years of credited  
2 service, ~~including five years of credited service for prior to the~~  
3 ~~reduction in workload. Additionally, the member shall have five~~  
4 ~~years of full-time employment immediately preceding the reduction~~  
5 ~~in workload.~~

6 (3) The member may not have had a break in service during the  
7 five years immediately preceding the reduction in workload. For  
8 purposes of this subdivision, sabbaticals, other approved leaves  
9 of absence, and unpaid absences from the performance of creditable  
10 service for personal reasons *from full time employment* do not  
11 constitute a break in service. For purposes of this subdivision, the  
12 period of time during which a member is retired for service shall  
13 constitute a break in service and a member who reinstates from  
14 retirement shall be required to be employed on a full-time basis  
15 to perform creditable service for at least five school years  
16 immediately preceding the reduction in workload.

17 (4) The member shall have reached 55 years of age prior to the  
18 reduction in workload.

19 (5) The reduced workload shall be performed for a period of  
20 time, as specified in the regulations, up to and including 10 years.  
21 The period of time specified in the regulations may not exceed 10  
22 years.

23 (6) The reduced workload shall be equal to at least one-half of  
24 the time the employer requires for full-time employment in  
25 accordance with Section 22138.5 pursuant to the member's contract  
26 of employment during his or her last school year of full-time  
27 employment preceding the reduction in workload.

28 (7) The member shall be paid creditable compensation that is  
29 the pro rata share of the creditable compensation the member would  
30 have been paid had the member not reduced his or her workload.

31 (c) Prior to the reduction of a member's workload under this  
32 section, the employer, in conjunction with the administrative staff  
33 of the State Teachers' Retirement Plan and the Public Employees'  
34 Retirement System, shall verify the member's eligibility for the  
35 reduced workload program.

36 (d) For each school year the member's workload is reduced  
37 pursuant to this section, the member shall make contributions to  
38 the Teachers' Retirement Fund in the amount that the member  
39 would have contributed if the member had performed creditable

1 service on a full-time basis and if that service was subject to  
2 coverage under the Defined Benefit Program.

3 (e) For each school year the member's workload is reduced  
4 pursuant to this section, the employer shall contribute to the  
5 Teachers' Retirement Fund at a rate adopted by the board as a plan  
6 amendment with respect to the Defined Benefit Program an amount  
7 based upon the creditable compensation that would have been paid  
8 to the member if the member had performed creditable service on  
9 a full-time basis and if that service was subject to coverage under  
10 the Defined Benefit Program.

11 (f) The employer shall maintain the necessary records to  
12 separately identify each member who participates in the reduced  
13 workload program pursuant to this section.

14 (g) A member who retires or otherwise separates from service  
15 prior to the end of the school year shall be in violation of this  
16 section and the member's service credit for that period of the  
17 contract shall be computed in accordance with Section 22701.

18 SEC. 5. Section 22801 of the Education Code is amended to  
19 read:

20 22801. (a) A member who ~~elects to receive requests to~~  
21 ~~purchase~~ additional service credit as provided in this chapter *and*  
22 *Chapter 14.2 (commencing with Section 22820)* shall pay, prior  
23 to retirement, all contributions with respect to that service at the  
24 contribution rate for additional service credit, adopted by the board  
25 as a plan amendment, in effect ~~at the time of election~~ *on the date*  
26 *of the request to purchase additional service credit*. If the system  
27 is unable to inform the member or beneficiary of the amount  
28 required to purchase additional service credit prior to the effective  
29 date of the applicable allowance, the member or beneficiary may  
30 make the required payment within 30 working days after the date  
31 of mailing of the statement of contributions and interest required  
32 or the effective date of the appropriate allowance, whichever is  
33 later. The payment shall be paid in full before a member or  
34 beneficiary receives any adjustment in the appropriate allowance  
35 due because of that payment. Contributions shall be made in a  
36 lump sum, or in not more than 120 monthly installments, not to  
37 exceed ten years. No installment, except the final installment, shall  
38 be less than twenty-five dollars (\$25).

39 (b) If the member is employed to perform creditable service  
40 subject to coverage by the Defined Benefit Program ~~at the time of~~

1 ~~the election on the date of the request to purchase additional~~  
2 ~~service credit~~, the contributions shall be based upon the  
3 compensation earnable in the current school year or either of the  
4 two immediately preceding school years, whichever is highest.

5 (c) If the member is not employed to perform creditable service  
6 subject to coverage by the Defined Benefit Program ~~at the time of~~  
7 ~~the election on the date of the request to purchase additional~~  
8 ~~service credit~~, the contributions shall be based upon the  
9 compensation earnable in the last school year of credited service  
10 or either of the two immediately preceding school years, whichever  
11 is highest, *and additional regular interest shall be added to the*  
12 *contributions from July 1 of the subsequent year in which the*  
13 *member last performed creditable service subject to coverage by*  
14 *the Defined Benefit Program to 20 days after the date of the*  
15 *request.*

16 (d) The employer may pay the amount required as employer  
17 contributions for additional service credited under paragraphs ~~(2)~~,  
18 ~~(6)~~, (7), (8), ~~and~~ (9), *and (10)* of subdivision (a) of Section 22803.

19 (e) The Public Employees' Retirement System shall transfer  
20 the actuarial present value of the assets of a person who makes an  
21 election pursuant to paragraph ~~(10)~~ (11) of subdivision (a) of  
22 Section 22803.

23 ~~(f) Regular interest shall be charged on all contributions from~~  
24 ~~the end of the school year on which the contributions were based~~  
25 ~~to the date of payment.~~

26 ~~(g)~~  
27 (f) Regular interest shall be charged on the monthly unpaid  
28 balance if the member pays in installments. Regular interest may  
29 not be charged or be payable for the period of a delay caused by  
30 the system's inability or failure to determine and inform the  
31 member or beneficiary of the amount of contributions and interest  
32 that is payable. The period of delay shall commence on the 20th  
33 day following the day on which the member or beneficiary who  
34 wishes to make payment evidences in writing to the system that  
35 he or she is ready, willing, and able to make payment to the system.  
36 The period of delay shall cease on the first day of the month  
37 following the mailing of notification of contributions and interest  
38 payable.

39 ~~(h)~~

(g) If the payment described in subdivision (a) is not received at the system's headquarters office, as described in Section 22375, within 120 days of the due date, the election pursuant to this section shall be canceled. The member shall receive credit for additional service based on the payments that were made or the member may request a return of his or her payments.

(i)

(h) If the election to purchase additional service credit is canceled as described in subdivision ~~(h)~~ (g), the member may, prior to the effective date of his or her retirement, elect to purchase additional service credit pursuant to this section.

SEC. 6. Section 22802 of the Education Code is amended to read:

22802. (a) A member, *other than a retired member*, who was previously excluded from membership in the Defined Benefit Program may ~~elect to receive request to purchase service~~ credit for:

(1) Service as a substitute excluded under Section 22602.

(2) Creditable service subject to coverage under the Cash Balance Benefit Program, excluding service credited pursuant to Section 26402, if the member *is currently contributing to the Defined Benefit Program* and has terminated all service subject to coverage under the Cash Balance Benefit Program. Upon ~~electing to receive~~ *requesting to purchase service* credit under this paragraph, the member shall cease to be eligible for a benefit for the same service or time previously credited under the Cash Balance Benefit Program pursuant to Part 14 (commencing with Section 26000).

(3) Service performed on a part-time basis excluded under Section 22601.5 or Section 22604, other than service credited under paragraph (2).

(4) Adult education service excluded under Section 22603, as it read on December 31, 1995.

(5) Service as a school nurse excluded under Section 22606, as it read on December 31, 1995.

(6) Service performed in a position prior to the date the position was made subject to coverage under the Defined Benefit Program.

(7) Service subject to coverage under the Defined Benefit Program performed while a member of another California public retirement system, provided the member has ceased to be a member

1 of, and has ceased to be entitled to benefits from, the other  
2 retirement system. The member shall not receive credit for the  
3 service if the member may redeposit withdrawn contributions and  
4 subsequently be eligible for any benefits based upon the same  
5 service or based upon other full-time service performed during the  
6 same period, from another California public retirement system.

7 (b) A member who ~~elects to receive~~ *requests to purchase service*  
8 credit under this part for service performed while excluded from  
9 membership under the Defined Benefit Program shall pay all of  
10 the required contributions for all or the portion of that service for  
11 which the member ~~elects to receive~~ *requests to purchase service*  
12 credit.

13 (c) A member may not ~~elect to receive~~ *request to purchase*  
14 *service* credit for service or time described in paragraphs (1) and  
15 (3) to (7), inclusive, of subdivision (a) if, after the ~~election~~ *request*,  
16 the member would continue to receive credit for the same service  
17 or time in the Cash Balance Benefit Program under Part 14  
18 (commencing with Section 26000) or another *public* retirement  
19 system.

20 SEC. 7. Section 22803 of the Education Code is amended to  
21 read:

22 22803. (a) A member, *other than a retired member*, may ~~elect~~  
23 ~~to receive~~ *request to purchase service* credit for any of the  
24 following:

25 (1) Service performed in a teaching position in ~~a publicly~~  
26 ~~supported and administered university or college in this state~~ *the*  
27 *University of California or California State University that is not*  
28 covered by another public retirement system.

29 (2) Service performed in a certificated teaching position in a  
30 child care center operated by a county superintendent of schools  
31 or a school district in this state.

32 (3) Service performed in a teaching position in the California  
33 School for the Deaf or the California School for the Blind, or in  
34 special classes maintained by the public schools of this state for  
35 the instruction of the deaf, the hard of hearing, the blind, or the  
36 semisighted.

37 (4) Service performed in a certificated teaching position in a  
38 federally supported and administered Indian school in this state.

39 (5) Time served, not to exceed two years, in a certificated  
40 teaching position in a job corps center administered by the United

1 States government in this state if the member was employed to  
2 perform creditable service subject to coverage under the Defined  
3 Benefit Program within one year prior to entering the job corps  
4 and returned to employment to perform creditable service subject  
5 to coverage under the Defined Benefit Program within six months  
6 following the date of termination of service in the job corps.

7 (6) Time served, not to exceed two years, in a teaching position  
8 as a member of the Peace Corps if the member was employed to  
9 perform creditable service subject to coverage under the Defined  
10 Benefit Program within one year prior to entering the Peace Corps  
11 and returned to employment to perform creditable service subject  
12 to coverage under the Defined Benefit Program within six months  
13 following the date of termination of service in the Peace Corps.

14 (7) Time spent on a sabbatical leave, approved by an employer  
15 in this state, ~~after July 1, 1956~~ *after meeting the requirements of*  
16 *Section 44969.*

17 (8) Time spent on an approved leave, approved by an employer  
18 in this state, to participate in any program under the federal Mutual  
19 Educational and Cultural Exchange Program.

20 (9) Time spent on leave approved by an employer in this state  
21 as maternity or paternity leave, not to exceed 24 consecutive  
22 months, regardless of whether or not the leave was taken before  
23 or after the addition of this subdivision.

24 (10) Time spent on an ~~approved leave~~ *employer-approved leave*  
25 *based on the guidelines for the Family and Medical Leave Act or*  
26 *the California Family Rights Act, or both,* up to four months in  
27 any 12-month period, ~~for family care or medical leave purposes,~~  
28 ~~as defined by Section 12945.2 of the Government Code, as it read~~  
29 ~~on the date leave was granted, excluding maternity and paternity~~  
30 ~~leave.~~

31 (11) Time spent employed by the Board of Governors of the  
32 California Community Colleges in a position subject to coverage  
33 by the Public Employees' Retirement System between July 1,  
34 1991, and December 31, 1997, provided the member has elected  
35 to return to coverage under the State Teachers' Retirement System  
36 pursuant to Section 20309 of the Government Code.

37 (b) In no event shall the member receive credit for service or  
38 time described in paragraphs (1) to (11), inclusive, of subdivision  
39 (a) if the member has received or is eligible to receive credit for  
40 the same service or time in the Cash Balance Benefit Program

1 under Part 14 (commencing with Section 26000) or another *public*  
2 retirement system.

3 SEC. 8. Section 22805 of the Education Code is amended to  
4 read:

5 22805. (a) A member may ~~elect~~ *request* to receive credit under  
6 this part for time served in the active military service of the United  
7 States or of this state, including active service in any uniformed  
8 auxiliary to any branch of that military service authorized as an  
9 auxiliary by Congress or the Legislature, or in the full-time paid  
10 service of the American Red Cross prior to September 1957, if  
11 both of the following conditions exist:

12 (1) The time served was during war with any foreign power or  
13 during other national emergency, or in time of peace if the member  
14 was drafted for that service by the United States government.

15 (2) The member was employed to perform creditable service  
16 subject to coverage under the Defined Benefit Program within one  
17 year prior to entering that service. Time included under this section  
18 shall be considered as served in the state in which the member was  
19 last employed before entering that service.

20 (b) Time during which the member was absent without  
21 compensation for other cause, on leave, or otherwise, shall not be  
22 included.

23 SEC. 9. Section 22820 of the Education Code is amended to  
24 read:

25 22820. (a) A member, other than a retired member, may ~~elect~~  
26 *request* to purchase ~~credit for~~ out-of-state service *credit* for any  
27 of the following:

28 (1) Service performed in a position while employed by a public  
29 educational institution located in another state or territory of the  
30 United States.

31 (2) Educational service performed as an employee of the United  
32 States.

33 (3) Service performed as an employee of an educational  
34 institution located outside of the United States and its territories  
35 that receives a portion of its funding from any foreign or domestic  
36 public sources and provides a level of education comparable to  
37 kindergarten and grades 1 to 12, inclusive, as determined by the  
38 applicable law of the jurisdiction in which the educational  
39 institution is located.

(4) As an employee of an educational institution that receives funds under Section 2701 of Title 22 of the United States Code.

(b) The member may not receive credit for this service if the member retains or is eligible to receive credit for the same service in the Cash Balance Benefit Program under Part 14 (commencing with Section 26000) or another public retirement system, excluding social security.

(c) The amount of out-of-state service ~~for which credit~~ a member may purchase ~~credit~~ may not exceed the number of years of service performed by the member in a position described in subdivision (a).

(d) Out-of-state service credit may be purchased under this section by means of any of the following actions:

(1) Paying an amount equal to the amount refunded from the other public retirement system and receiving service credit under the Defined Benefit Program pursuant to subdivision (a) of Section 22823.

(2) Paying the contributions required under the Defined Benefit Program pursuant to subdivision (a) of Section 22823 for the service credited in the other public retirement system.

(3) Paying an amount equal to the amount refunded from the other public retirement system and an additional amount in accordance with subdivision (a) of Section 22823 for the service credited in the other public retirement system.

(4) Paying the contributions required under the Defined Benefit Program pursuant to subdivision (a) of Section 22823 for the service not credited to a public retirement system.

(e) Compensation for out-of-state service may not be used in determining the highest average annual compensation earnable when calculating final compensation.

(f) The service credit purchased under this section may not be used to meet the eligibility requirements for benefits provided under Sections 24001 and 24101.

SEC. 10. Section 22821 of the Education Code is amended to read:

22821. A member's ~~election~~ *request* to purchase out-of-state service credit pursuant to this chapter shall be submitted in writing and shall include information as required by the board.

SEC. 11. Section 22822 of the Education Code is amended to read:



1     ~~22822. An election~~*A request* pursuant to Section 22820 to  
2     ~~purchase credit for~~ out-of-state service *credit* may be made by a  
3     member any time prior to the effective date of a family, survivor,  
4     disability, or retirement allowance.

5     SEC. 12. Section 22823 of the Education Code is amended to  
6     read:

7     22823. ~~(a)~~*A member who elects requests* to purchase  
8     out-of-state *service credit pursuant to Section 22820* shall pay,  
9     prior to retirement, all contributions with respect to that service at  
10    the contribution rate for additional service credit adopted by the  
11    board as a plan amendment, in effect ~~at the time of election~~ *on the*  
12    *date of the request, in accordance with subdivisions (a), (f), (g),*  
13    *and (h) of Section 22801.*

14    ~~(b) (1) Any payment that a member may make to the system~~  
15    ~~to obtain credit for out-of-state service shall be paid in full prior~~  
16    ~~to the effective date of a family, survivor, disability, or retirement~~  
17    ~~allowance.~~

18    ~~(2) If the system is unable to inform the member or beneficiary~~  
19    ~~of the amount required to purchase out-of-state service prior to the~~  
20    ~~effective date of the applicable allowance, the member or~~  
21    ~~beneficiary may make payment in full within 30 working days~~  
22    ~~after the date of mailing of the statement of contributions and~~  
23    ~~interest required or the effective date of the appropriate allowance,~~  
24    ~~whichever is later. The payment shall be paid in full before a~~  
25    ~~member or beneficiary may receive any adjustment in the~~  
26    ~~appropriate allowance due because of that payment.~~

27    ~~(c) Contributions for out-of-state service credit shall be made~~  
28    ~~in a lump sum, or in not more than 120 monthly installments, not~~  
29    ~~to exceed ten years. No installment, except the final installment,~~  
30    ~~shall be less than twenty-five dollars (\$25).~~

31    ~~(d) Regular interest shall be charged on the monthly unpaid~~  
32    ~~balance if the member makes installment payments.~~

33    ~~(e) If the payment described in subdivision (a) is not received~~  
34    ~~at the system's headquarters office, as described in Section 22375,~~  
35    ~~within 120 days of the due date, the election pursuant to this section~~  
36    ~~shall be canceled. The member shall receive credit for out-of-state~~  
37    ~~service based on the payments that were made or the member may~~  
38    ~~request a return of his or her payments.~~

39    ~~(f) If the election to purchase out-of-state service is canceled as~~  
40    ~~described in subdivision (e), the member may, prior to the effective~~

1 date of his or her retirement, elect to purchase out-of-state service  
2 pursuant to this section.

3 SEC. 13. Section 22826 of the Education Code is amended to  
4 read:

5 22826. (a) A member, *other than a retired member*, may elect  
6 ~~to receive request to purchase~~ up to five years of ~~credit for~~  
7 nonqualified service *credit* provided the member is vested in the  
8 Defined Benefit Program as provided in Section 22156.

9 (b) A member who ~~elects to receive credit for requests to~~  
10 ~~purchase~~ nonqualified service *credit* as provided in this chapter  
11 shall contribute to the retirement fund the actuarial cost of the  
12 service, including interest as appropriate, as determined by the  
13 board based on the most recent valuation of the plan with respect  
14 to the Defined Benefit Program *in effect on the date of the request,*  
15 *in accordance with subdivisions (a), (f), (g), and (h) of Section*  
16 *22801.*

17 (1) ~~Payment that a member may make to the system to obtain~~  
18 ~~credit for nonqualified service shall be paid in full prior to the~~  
19 ~~effective date of a family, survivor, disability, or retirement~~  
20 ~~allowance.~~

21 (2) ~~If the system is unable to inform the member of the amount~~  
22 ~~required to purchase nonqualified service prior to the effective~~  
23 ~~date of the applicable allowance, the member may make payment~~  
24 ~~in full within 30 working days after the date of mailing of the~~  
25 ~~statement of contributions and interest required or the effective~~  
26 ~~date of the appropriate allowance, whichever is later.~~

27 (e) ~~Contributions for nonqualified service credit shall be made~~  
28 ~~in a lump sum or in not more than 120 monthly installments, not~~  
29 ~~to exceed ten years. No installment, except the final installment,~~  
30 ~~shall be less than twenty-five dollars (\$25).~~

31 (d) ~~Regular interest shall be charged on the monthly unpaid~~  
32 ~~balance if the member makes installment payments.~~

33 (e) ~~If the payment described in subdivision (a) is not received~~  
34 ~~at the system's headquarters office, as described in Section 22375,~~  
35 ~~within 120 days of the due date, the election pursuant to this section~~  
36 ~~shall be canceled. The member shall receive credit for nonqualified~~  
37 ~~service based on the payments that were made or the member may~~  
38 ~~request a return of his or her payments.~~

39 (f) ~~If the election to purchase nonqualified service is canceled~~  
40 ~~as described in subdivision (e), the member may, prior to the~~

1 ~~effective date of his or her retirement, elect to purchase~~  
2 ~~nonqualified service pursuant to this section.~~

3 SEC. 14. Section 23200 of the Education Code is amended to  
4 read:

5 23200. (a) If a person, whose accumulated retirement  
6 contributions have been refunded, again becomes a member of the  
7 Defined Benefit Program or is subject to Section 23201, the person  
8 may ~~elect~~ *request* to redeposit all or a portion of those contributions  
9 with regular interest from the date of refund to the date of payment.

10 ~~(b) For time prior to July 1, 1944, regular interest shall be at~~  
11 ~~2 ½ percent compounded annually.~~

12 ~~(c)~~

13 ~~(b)~~ If a nonmember spouse, as defined in Section 22651,  
14 withdraws accumulated contributions in accordance with Section  
15 22661, the member may redeposit all or a portion of those  
16 contributions pursuant to subdivision (a), providing he or she is  
17 not receiving an allowance under Chapter 26 (commencing with  
18 Section 24100) or Chapter 27 (commencing with Section 24201).

19 ~~(d)~~

20 ~~(c)~~ If a member ~~elects~~ *requests* to redeposit a portion of all  
21 accumulated retirement contributions that were previously refunded  
22 subject to requirements imposed by the board, the member shall  
23 receive pro rata service credit in proportion to the amount  
24 redeposited.

25 SEC. 15. Section 23201 of the Education Code is amended to  
26 read:

27 23201. Any person whose accumulated retirement contributions  
28 were refunded, who wishes to establish concurrent membership,  
29 and who has received, or will qualify to receive, a retirement  
30 allowance from one or more of the retirement systems defined in  
31 Section 22115.2, may ~~elect~~ *request* to redeposit all or a portion of  
32 the accumulated retirement contributions that were refunded, with  
33 regular interest from the date of refund to the date of payment,  
34 without being employed to perform creditable service subject to  
35 coverage under the Defined Benefit Program.

36 SEC. 16. Section 23859 of the Education Code is amended to  
37 read:

38 23859. (a) Upon termination of a survivor benefit allowance  
39 pursuant to this chapter, if the total allowance paid or payable is  
40 less than the amount of the member's accumulated retirement

1 contributions at the time of death, the remaining balance of  
2 accumulated retirement contributions shall be paid to the estate of  
3 the spouse.

4 *(b) If there is no spouse, and if there is a designated beneficiary*  
5 *pursuant to Section 23300, then upon termination of the survivor*  
6 *benefit allowance payable to all eligible dependent children*  
7 *pursuant to Section 23852, if the total allowance paid or payable*  
8 *is less than the amount of the member's accumulated retirement*  
9 *contributions at the time of death, the remaining balance of the*  
10 *accumulated retirement contributions shall be paid to the member's*  
11 *designated beneficiary pursuant to Section 23300.*

12 ~~(b)~~

13 (c) Payments provided under this section shall include credited  
14 interest on the unpaid balance calculated from the date the last  
15 survivor benefit allowance payment was made or from the date of  
16 death of the member, if no survivor benefit allowance payments  
17 were made, to the date the balance is paid.

18 SEC. 17. Section 24001 of the Education Code is amended to  
19 read:

20 24001. (a) A member may apply for a disability allowance  
21 under the Defined Benefit Program, *upon written application for*  
22 *disability allowance to the board on a properly executed form*  
23 *provided by the system*, if the member has five or more years of  
24 credited service and if all of the following requirements are met:

25 (1) At least four years were credited for actual performance of  
26 service subject to coverage under the Defined Benefit Program.  
27 Credit received because of workers' compensation payments shall  
28 be counted toward the four-year requirement in accordance with  
29 Section 22710.

30 (2) The last five years of credited service were performed in  
31 this state.

32 (3) Except as described in subdivision (d) of Section 24201.5,  
33 at least one year was credited for service performed subsequent to  
34 the date on which the member terminated the service retirement  
35 allowance under Section 24208.

36 (4) At least one year was credited for service performed  
37 subsequent to the most recent refund of accumulated retirement  
38 contributions.

1 (5) The member has neither attained normal retirement age, nor  
2 possesses sufficient unused sick leave days to receive creditable  
3 compensation on account of sick leave to normal retirement age.

4 (6) The member is not applying for a disability allowance  
5 because of a physical or mental condition known to exist at the  
6 time the most recent membership in the Defined Benefit Program  
7 commenced and remains substantially unchanged at the time of  
8 application.

9 (b) Nothing in subdivision (a) shall affect the right of a member  
10 to a disability allowance under this part if the reason that the  
11 member is credited with less than four years of actual service  
12 performed subject to coverage under the Defined Benefit Program  
13 is due to an on-the-job injury or a disease that occurred while the  
14 member was employed and the four-year requirement can be  
15 satisfied by credit obtained under Chapter 14 (commencing with  
16 Section 22800) or Chapter 14.5 (commencing with Section 22850)  
17 in addition to any credit received from workers' compensation  
18 payments.

19 (c) Nothing in subdivision (a) shall affect the right of a member  
20 under this part who has less than five years of credited service to  
21 a disability allowance if the following conditions are met:

22 (1) The member has at least one year of credited service  
23 performed in this state.

24 (2) The disability is the direct result of an unlawful act of bodily  
25 injury that was perpetrated on his or her person by another human  
26 being while the member was performing his or her official duties  
27 in a position subject to coverage under the Defined Benefit  
28 Program.

29 (3) The member provides documentation of the unlawful act in  
30 the form of an official police report or official employer incident  
31 report.

32 (d) A member who is eligible to apply for a disability allowance  
33 pursuant to this section may also apply for a service retirement  
34 pending a determination of his or her application for disability as  
35 described in Section 24201.5.

36 SEC. 18. Section 24101 of the Education Code is amended to  
37 read:

38 24101. (a) A member may apply for a disability retirement  
39 under this part, *upon written application for disability retirement*  
40 *to the board on a properly executed form provided by the system,*

1 if the member has five or more years of credited service and if all  
2 of the following requirements are met:

3 (1) At least four years were credited for actual service performed  
4 subject to coverage under the Defined Benefit Program. Credit  
5 received because of workers' compensation payments shall be  
6 counted toward the four-year requirement in accordance with  
7 Section 22710.

8 (2) The last five years of credited service were performed in  
9 this state.

10 (3) Except as described in subdivision (d) of Section 24201.5,  
11 at least one year of credited service was earned subsequent to the  
12 date on which the member terminated the service retirement  
13 allowance under Section 24208.

14 (4) At least one year of credited service was earned subsequent  
15 to the date on which the member's disability retirement was  
16 terminated.

17 (5) At least one year of credited service was earned subsequent  
18 to the most recent refund of accumulated retirement contributions.

19 (6) The member is not applying for a disability retirement  
20 because of a physical or mental condition known to exist at the  
21 time the most recent membership in the Defined Benefit Program  
22 commenced and that remains substantially unchanged at the time  
23 of application.

24 (b) Nothing in subdivision (a) shall affect the right of a member  
25 to a disability retirement if the reason that the member has  
26 performed less than four years of actual service is due to an  
27 on-the-job injury or a disease while in employment subject to  
28 coverage by the Defined Benefit Program and the four-year  
29 requirement can be satisfied by credit obtained under Chapter 14  
30 (commencing with Section 22800) or Chapter 14.5 (commencing  
31 with Section 22850) in addition to any credit received from  
32 workers' compensation payments.

33 (c) Nothing in subdivision (a) shall affect the right of a member  
34 under this part who has less than five years of credited service to  
35 a disability retirement allowance if the following conditions are  
36 met:

37 (1) The member has at least one year of credited service  
38 performed in this state.

39 (2) The disability is a direct result of an unlawful act of bodily  
40 injury that was perpetrated on his or her person by another human

1 being while the member was performing his or her official duties  
2 in a position subject to coverage under the Defined Benefit  
3 Program.

4 (3) The member provides documentation of the unlawful act in  
5 the form of an official police report or official employer incident  
6 report.

7 (d) A member who is eligible to apply for a disability retirement  
8 pursuant to this section may also apply for a service retirement  
9 pending a determination of his or her application for disability as  
10 described in Section 24201.5.

11 SEC. 19. Section 24216 of the Education Code is amended to  
12 read:

13 24216. (a) (1) A member retired for service under this part  
14 who is appointed as a trustee or administrator by the Superintendent  
15 pursuant to Section 41320.1, or who is appointed as a trustee  
16 pursuant to the Immediate Intervention/Underperforming Schools  
17 Program (Article 3 (commencing with Section 52053) of Chapter  
18 6.1 of Part 28) or the High Priority Schools Grant Program (Article  
19 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part  
20 28), or a member retired for service who is assigned by a county  
21 superintendent of schools pursuant to Article 2 (commencing with  
22 Section 42122) of Chapter 6 of Part 24, shall be exempt from  
23 subdivisions (d) and (f) of Section 24214 for a maximum period  
24 of ~~two years~~ *24 consecutive months*.

25 (2) The period of exemption shall commence on the date the  
26 member retired for service is appointed or assigned and shall end  
27 no more than ~~two calendar years~~ *24 consecutive months* from that  
28 date, after which the limitation specified in subdivisions (d) and  
29 (f) of Section 24214 shall apply.

30 (3) An exemption under this subdivision shall be granted by the  
31 system providing that the Superintendent or the county  
32 superintendent of schools submits documentation required by the  
33 system to substantiate the eligibility of the member retired for  
34 service for an exemption under this subdivision. *The documentation*  
35 *shall be received by the system no later than June 30 of the school*  
36 *year for which the exemption is to apply.*

37 (b) (1) A member retired for service under this part who is  
38 employed by an employer to perform creditable service in an  
39 emergency situation to fill a vacant administrative position  
40 requiring highly specialized skills shall be exempt from the

1 provisions of subdivisions (d) and (f) of Section 24214 for  
2 creditable service performed up to one-half of the full-time  
3 position, if the vacancy occurred due to circumstances beyond the  
4 control of the employer.

5 (2) The period of exemption shall commence on the date the  
6 member retired for service is appointed or assigned and shall end  
7 no more than ~~two calendar years~~ *24 consecutive months* from that  
8 date, after which the limitation specified in subdivisions (d) and  
9 (f) of Section 24214 shall apply.

10 (3) An exemption under this subdivision shall be granted by the  
11 system subject to the following conditions:

12 (A) The recruitment process to fill the vacancy on a permanent  
13 basis is expected to extend over several months.

14 (B) The employment is reported in a public meeting of the  
15 governing body of the employer.

16 (C) The employer submits documentation required by the system  
17 to substantiate the eligibility of the member retired for service for  
18 an exemption under this subdivision.

19 (c) This section does not apply to any person who has received  
20 additional service credit pursuant to Section 22715 or 22716.

21 (d) A person who has received additional service credit pursuant  
22 to Section 22714 or 22714.5 shall be ineligible for one year from  
23 the effective date of retirement for the exemption provided in this  
24 section for service performed in any school district, community  
25 college district, or county office of education in the state.

26 (e) This section shall remain in effect only until June 30, 2010,  
27 and shall be repealed on January 1, 2011, unless a later enacted  
28 statute deletes or extends that date.

29 SEC. 20. Section 24216.5 of the Education Code is amended  
30 to read:

31 24216.5. (a) The compensation earned by a member who  
32 retired for service under this part shall be exempt from subdivisions  
33 (d), (f), and (g) of Section 24214, if all of the following conditions  
34 are met:

35 (1) The member retired for service with an effective date on or  
36 before January 1, 2007.

37 (2) The member retired for service is employed by a school  
38 district to provide any of the following:

39 (A) Direct classroom instruction to pupils enrolled in  
40 kindergarten or any *of* grades 1 to 12, inclusive.



1 (B) Support and assessment for new teachers through the  
2 Beginning Teacher Support and Assessment program authorized  
3 by Section 44279.1.

4 (C) Support to individuals completing student teaching  
5 assignments.

6 (D) Support to individuals participating in the following  
7 programs:

8 (i) Pre-Internship Teaching Program authorized pursuant to  
9 Article 5.6 (commencing with Section 44305) of Chapter 2 of Part  
10 25.

11 (ii) Alternative certification programs authorized pursuant to  
12 Article 11 (commencing with Section 44380) of Chapter 2 of Part  
13 25.

14 (iii) School Paraprofessional Teacher Training Program  
15 established pursuant to Article 12 (commencing with Section  
16 44390) of Chapter 2 of Part 25.

17 (E) Instruction and pupil services provided to pupils enrolled  
18 in special education programs authorized pursuant to Part 30  
19 (commencing with Section 56000) of Division 4 of Title 2.

20 (F) Instruction to pupils enrolled in English language learner  
21 programs authorized pursuant to Chapter 3 (commencing with  
22 Section 300), Chapter 4 (commencing with Section 400), and  
23 Chapter 6 (commencing with Section 430) of Part 1 of Division  
24 1.

25 (3) All members retired for service whose employment with a  
26 school district meets the conditions specified in this section shall  
27 be treated as a distinct class of temporary employees within the  
28 existing bargaining unit whose service may not be included in  
29 computing the service required as a prerequisite to attainment of  
30 or eligibility for classification as a permanent employee of a school  
31 district. The compensation for service performed by this class of  
32 employees shall be established in accordance with subdivision (b)  
33 of Section 24214 and agreed to in the collective bargaining  
34 agreement between the employing school district and the exclusive  
35 representative for the existing bargaining unit within which these  
36 temporary employees of the school district are treated as a distinct  
37 class.

38 (4) The employing school district submits documentation  
39 required by the system to substantiate the eligibility of the  
40 temporary employment of a member retired for service for the

1 exemption under this subdivision. *The documentation shall be*  
2 *received by the system no later than June 30 of the school year for*  
3 *which the exemption is to apply.*

4 (b) A school district that employs a member retired for service  
5 pursuant to this section shall maintain accurate records of the  
6 retired member's compensation earned and shall report that  
7 compensation monthly to the system regardless of the method of  
8 payment or the source of funds from which the compensation is  
9 paid.

10 (c) This section does not apply to the compensation earned for  
11 creditable service performed by a member retired for service for  
12 a community college district.

13 (d) This section shall remain in effect only until June 30, 2010,  
14 and shall be repealed as of January 1, 2011, unless a later enacted  
15 statute deletes or extends that date.

16 SEC. 21. Section 24216.6 of the Education Code is amended  
17 to read:

18 24216.6. (a) The compensation earned by a member who  
19 retired for service under this part shall be exempt from subdivisions  
20 (d), (f), and (g) of Section 24214, if all of the following conditions  
21 are met:

22 (1) The member retired for service with an effective date on or  
23 before January 1, 2007.

24 (2) The member retired for service is employed by a school  
25 district to provide direct remedial instruction to pupils in grades  
26 2 to 12, inclusive. "Remedial instruction" means the programs  
27 specified in Sections 37252 and 37252.2.

28 (3) All members retired for service whose employment with a  
29 school district meets the conditions specified in this section shall  
30 be treated as a distinct class of temporary employees within the  
31 existing bargaining unit whose service may not be included in  
32 computing the service required as a prerequisite to attainment of  
33 or eligibility for classification as a permanent employee of a school  
34 district. The compensation for service performed by this class of  
35 employees shall be established in accordance with subdivision (b)  
36 of Section 24214 and agreed to in the collective bargaining  
37 agreement between the employing school district and the exclusive  
38 representative for the existing bargaining unit within which these  
39 temporary employees of the school district are treated as a distinct  
40 class.

(4) The employing school district submits documentation required by the system to substantiate the eligibility of the temporary employment of a member retired for service for the exemption under this subdivision. That documentation shall be on a properly executed form provided by the system *and shall be received by the system no later than June 30 of the school year for which the exemption is to apply.*

(b) A school district that employs a member retired for service pursuant to this section shall maintain accurate records of the retired member's compensation earned and shall report that compensation monthly to the system regardless of the method of payment or the source of funds from which the compensation is paid.

(c) This section does not apply to the compensation earned for creditable service performed by a member retired for service for a county office of education or a community college district.

(d) This section shall remain in effect only until June 30, 2010, and shall be repealed as of January 1, 2011, unless a later enacted statute deletes or extends that date.

SEC. 22. Section 24301 of the Education Code is amended to read:

24301. (a) A member who has filed an application under this part for a disability retirement pursuant to Chapter 26 (commencing with Section 24100) may elect, as provided in Section 24300 or 24300.1 to receive an actuarially modified disability retirement allowance. After receipt of a disability retirement application from a member, the board shall mail an acknowledgment notice to the member. A 30-day period shall commence with the mailing of the acknowledgment, during which time the member may change the option election made on the disability retirement application.

(b) The option shall become effective on the effective date of the disability retirement allowance. The modification of the disability retirement allowance under the option elected shall be based on the ages of the retired member and the designated option beneficiary as of the effective date of the disability retirement. The modification shall be applicable only to the disability retirement allowance payable pursuant to subdivision (a) of Section 24106.

(c) ~~The~~ *Except as provided in Sections 24300, 24300.1, 24300.6, 24305, 24305.5, and 24306, the* elected option may not be revoked or changed after the later of the effective date of the disability

1 retirement allowance or 30 days after the mailing of the  
2 acknowledgment notice pursuant to this section.

3 (d) If a member dies prior to electing an unmodified allowance  
4 or an option, the death benefits shall be payable under Chapter 23  
5 (commencing with Section 23850), regardless of whether the  
6 disability retirement application is or would have been approved.

7 SEC. 23. Section 24309 of the Education Code is amended to  
8 read:

9 24309. (a) A member may change or cancel the election of an  
10 option made pursuant to Section 24307. The change or cancellation  
11 shall be on a properly executed form provided by the system and  
12 received at the system's headquarters office, as established pursuant  
13 to Section 22375, within 30 days of the date of the member's  
14 signature *and, if applicable, the spouse's signature*, and on or  
15 before the effective date of retirement under this part or during the  
16 period between termination of the retirement allowance pursuant  
17 to Section 24208 or 24117 and the effective date of the subsequent  
18 retirement under this part. The change or cancellation shall become  
19 effective as of the date of the member's signature.

20 (1) Any change to an election of an option shall be made  
21 according to Section 24307 and shall be considered a new  
22 preretirement election of an option.

23 (2) Regardless of how the member elects to receive his or her  
24 retirement allowance, a change made to an election of an option  
25 or a cancellation of an option shall result in the reduction of that  
26 allowance by an amount determined by the board to be the actuarial  
27 equivalent of the coverage the member received as a result of the  
28 preretirement election and that does not result in any adverse  
29 funding to the plan.

30 (b) If the option beneficiary designated in the preretirement  
31 election of an option pursuant to Section 24307 dies prior to the  
32 member's retirement, the preretirement election shall be canceled  
33 as of the day following the date of death and the member's  
34 subsequent retirement allowance under this part shall be subject  
35 to the allowance reduction prescribed in this section.

36 (c) If the option elected pursuant to Section 24307 is Option 8  
37 as described in paragraph (7) of subdivision (a) of Section 24300  
38 or the compound option as described in paragraph (4) of  
39 subdivision (a) of Section 24300.1, a member may cancel the  
40 designation of an option beneficiary. If the member cancels the

1 designation of the option beneficiary or the option beneficiary  
2 predeceases the member prior to the member's retirement, the  
3 member may elect to receive that portion of the retirement  
4 allowance without modification for the option or elect one or  
5 multiple new or existing option beneficiaries as described in  
6 Section 24307. Any change or cancellation of the designation of  
7 the option beneficiary under this subdivision shall result in the  
8 allowance reduction prescribed in this section.

9 SEC. 24. Section 25007 of the Education Code is amended to  
10 read:

11 25007. When the board declares an additional earnings credit  
12 for a plan year, the board also may declare by plan amendment an  
13 additional annuity credit, for members and annuity beneficiaries  
14 who are receiving an annuity as of the date specified by the board  
15 pursuant to Section 25006, based on the ~~balance of credits~~  
16 ~~transferred from the member's Defined Benefit Supplement account~~  
17 ~~to the Annuitant Reserve. The additional annuity credit, if declared~~  
18 ~~by the board, shall be paid in a lump sum annuity of the member~~  
19 ~~and annuity beneficiaries for the plan year. The additional annuity~~  
20 ~~credit shall be paid in a lump sum to the members and annuity~~  
21 ~~beneficiaries on the date specified by the board.~~ In addition to the  
22 considerations specified in Section 25006, prior to declaring an  
23 additional earnings credit, the board shall consider both of the  
24 following:

25 (a) The amount required for the plan year to apply the additional  
26 earnings credit to the Defined Benefit Supplement accounts of  
27 members who are not receiving an annuity under the Defined  
28 Benefit Supplement Program for the plan year.

29 (b) Any other obligations incurred by the plan with respect to  
30 the Defined Benefit Supplement Program.

31 SEC. 25. Section 25008.5 is added to the Education Code, to  
32 read:

33 25008.5. Notwithstanding any other law, if (a) a member or  
34 beneficiary whose effective date for a benefit received pursuant  
35 to any other chapter of this part was prior to January 1, 2010, (b)  
36 the member or beneficiary was required to receive a distribution  
37 of the balance of credits from the member's Defined Benefit  
38 Supplement account pursuant to this chapter, and (c) the member  
39 or beneficiary failed to submit an application for the distribution  
40 of the member's Defined Benefit Supplement account prior to

1 January 1, 2010, the system shall distribute the balance of credits  
2 in the member's Defined Benefit Supplement account in a  
3 lump-sum payment to the member or beneficiary, as applicable,  
4 by March 31, 2010.

5 SEC. 26. Section 25010 of the Education Code is amended to  
6 read:

7 25010. (a) A member who meets the following eligibility  
8 requirements shall receive a retirement benefit under the Defined  
9 Benefit Supplement Program:

10 (1) The member has terminated all employment to perform  
11 creditable service subject to coverage by the plan. The member's  
12 employer, or employers if the member has multiple employers,  
13 shall certify on a form prescribed by the system that the member's  
14 employment has been terminated.

15 (2) The member has retired for service under the Defined Benefit  
16 Program pursuant to Chapter 27 (commencing with Section 24201).

17 (b) A member shall submit an application for a retirement benefit  
18 on a form prescribed by the system.

19 *(c) A member retiring for service pursuant to Chapter 27*  
20 *(commencing with Section 24201) on or after January 1, 2010,*  
21 *shall not receive an allowance pursuant to Chapter 27 unless the*  
22 *member has submitted a completed application pursuant to*  
23 *subdivision (b).*

24 SEC. 27. Section 25011.1 of the Education Code is amended  
25 to read:

26 25011.1. (a) A member may elect to receive the retirement  
27 benefit as an annuity payable in monthly installments, provided  
28 the balance of credits in the member's Defined Benefit Supplement  
29 account on the date the retirement benefit becomes payable equals  
30 at least three thousand five hundred dollars (\$3,500) after any  
31 lump-sum payments have been made from the account. If the  
32 member elects to receive the retirement benefit as an annuity, the  
33 member shall elect one of the following forms of payments:

34 (1) Member only annuity. This is a single life annuity with a  
35 cash refund feature that is the actuarial equivalent of the amount  
36 that would be payable to the retired member if the member elected  
37 to receive the retirement benefit in a lump-sum payment. Upon  
38 the death of the member, an amount equal to the remaining balance  
39 of credits, if any, transferred from the member's Defined Benefit

1 Supplement account to the annuitant reserve shall be returned in  
2 a lump-sum payment to the beneficiary of the member.

3 (2) One hundred percent beneficiary annuity. This is a joint and  
4 survivor annuity that is the actuarial equivalent of the lump-sum  
5 payment modified to be payable over the combined lives of the  
6 member and the member's annuity beneficiary or beneficiaries.  
7 Upon the death of the member, 100 percent of the monthly amount  
8 that was payable to the member shall be paid monthly to the  
9 surviving annuity beneficiary or beneficiaries of the member.

10 (3) Seventy-five percent beneficiary annuity. This is a joint and  
11 survivor annuity that is the actuarial equivalent of the lump-sum  
12 payment modified to be payable over the combined lives of the  
13 member and the member's annuity beneficiary. Pursuant to Section  
14 401(a)(9) of the Internal Revenue Code, the member shall not elect  
15 this annuity if a beneficiary is more than exactly 19 years younger  
16 than the member, unless the beneficiary is the member's spouse  
17 or former spouse and the election is pursuant to a determination  
18 of community property rights. Upon the death of the member, 75  
19 percent of the monthly amount that was payable to the member  
20 shall be paid monthly to the surviving annuity beneficiary or  
21 beneficiaries of the member.

22 (4) Fifty percent beneficiary annuity. This is a joint and survivor  
23 annuity that is the actuarial equivalent of the lump-sum payment  
24 modified to be payable over the combined lives of the member  
25 and the member's annuity beneficiary or beneficiaries. Upon the  
26 death of the member, 50 percent of the monthly amount that was  
27 payable to the member shall be paid monthly to the surviving  
28 annuity beneficiary or beneficiaries of the member.

29 (5) A period certain annuity. This form of payment is an annuity  
30 equal to the actuarial equivalent of the balance of credits in the  
31 member's Defined Benefit Supplement account on the date the  
32 retirement benefit becomes payable. The annuity shall be payable  
33 in whole year increments over a period of years specified by the  
34 member, from a minimum of three years to a maximum of 10  
35 years. However, the annuity period may not exceed the life  
36 expectancy of the member, or the life expectancy of the member  
37 and the member's annuity beneficiary. If the member's death  
38 occurs prior to the end of the period certain, the remaining balance  
39 of payments shall be paid to the member's annuity beneficiary  
40 pursuant to Section 25022.

(b) If an annuity beneficiary designated pursuant to paragraph (2), (3), or (4) of subdivision (a) predeceases the member, the annuity shall be paid to the member only annuity that would have been payable had the member elected that form of payment at the commencement of the benefit. That member only annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24300.1, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification is received by the board, provided both the member and the new annuity beneficiary are then living. Notice to the board of the death of the annuity beneficiary shall be on a properly executed form provided by the system. The new annuity beneficiary under this paragraph is subject to an actuarial modification of the member only annuity and may not result in any additional liability to the fund. The new annuity beneficiary may not be an existing annuity beneficiary.

(c) If a nonmember spouse elects to receive the retirement benefit as an annuity, the nonmember spouse shall elect the form of payment specified in paragraph (1) or ~~(6)~~ (5) of subdivision (a) and, in those paragraphs, references to a "member" shall apply to the nonmember spouse.

(d) Notwithstanding Section 297 or 299.2 of the Family Code, a spouse as described in paragraph (3) or (5) of subdivision (a) does not include the domestic partner of the member, pursuant to Section 7 of Title 1 of the United States Code.

(e) If there is a determination of community property rights as described in Chapter 12 (commencing with Section 22650) of this part on or before December 31, 2006, the member may elect the annuity that is required by the judgment or court order. Nothing in this part shall permit the member to change the annuity to the detriment of the community property interest of the nonmember spouse.

SEC. 28. Section 25017 of the Education Code is amended to read:

25017. (a) A member shall receive a disability benefit under the Defined Benefit Supplement Program beginning on the effective date of the member's disability allowance pursuant to



Chapter 25 (commencing with Section 24001) or a disability retirement allowance pursuant to Chapter 26 (commencing with Section 24100) under the Defined Benefit Program.

(b) The member, or the member's employer or conservator on behalf of the member, shall submit an application for a disability benefit on a form prescribed by the system.

*(c) A member whose disability allowance or disability retirement allowance is effective on or after January 1, 2010, shall not receive an allowance pursuant to Chapter 25 (commencing with Section 24001) or Chapter 26 (commencing with Section 24100), as applicable, unless the member has submitted a completed application pursuant to subdivision (b).*

SEC. 29. Section 25020 of the Education Code is amended to read:

25020. (a) A final benefit under the Defined Benefit Supplement Program shall become payable when the system receives proof of the member's death. *For a member who died on or after January 1, 2010, no benefit shall be paid to a beneficiary of the member pursuant to other chapters of this part until the final benefit is paid pursuant to this article.*

(b) If the member's death occurs before an annuity under the Defined Benefit Supplement Program becomes payable, the final benefit shall be an amount equal to the balance of credits in the member's Defined Benefit Supplement account on the date of the member's death, plus minimum interest credited through the date of payment.

(c) Upon distribution of a final benefit in a lump-sum payment, no other benefit shall be payable under the Defined Benefit Supplement Program to the member's beneficiary.

SEC. 30. The heading of Part 14 (commencing with Section 26000) of Division 1 of Title 1 of the Education Code is amended to read:

**PART 14. STATE TEACHERS' RETIREMENT SYSTEM CASH  
BALANCE PLAN BENEFIT PROGRAM**

SEC. 31. Any section of any other act enacted by the Legislature during the 2009 calendar year that takes effect on or before January 1, 2010, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended,

1 amended and renumbered, added, repealed and added, or repealed  
2 by this act, shall prevail over this act, whether that act is enacted  
3 prior to or subsequent to the enactment of this act. The repeal, or  
4 repeal and addition, of any article, chapter, part, title, or division  
5 of any code by this act shall not become operative if any section  
6 of any other act that is enacted by the Legislature during the 2009  
7 calendar year and takes effect on or before January 1, 2010,  
8 amends, amends and renumbers, adds, repeals and adds, or repeals  
9 any section contained in that article, chapter, part, title, or division.

10  
11 \_\_\_\_\_  
12 **CORRECTIONS:**  
13 **Heading—Authors line 1.**  
14 \_\_\_\_\_